

Notice of Allowability

Application No.

08/749,766

Examiner

Daniel Swerdlow

Applicant(s)

METCALF, RANDALL B.

Art Unit

2646

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to BPAI decision mailed 31 October 2005.
2. ☒ The allowed claim(s) is/are 1,29,30 and 56-109.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|---|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____ |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ | 7. <input type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____ |

REASONS FOR ALLOWANCE

1. The following is an examiner's statement of reasons for allowance:
2. Regarding Claim 1, US Patent 1,765,735 to Phinney discloses "the use of sound recording devices, each corresponding to a particular section of a concerted performance, whereby the complete characteristics of each section may be separately recorded and controlled, together with a plurality of corresponding reproducing devices whose individual operations are combined to give to an auditor an impression corresponding to that of an original performance" (page 1, lines 22-31) (i.e., a sound system for capturing and reproducing sounds produced by a plurality of sound sources comprising: means for separately receiving sounds produced by the plurality of sound sources (Fig. 1, reference 1); means for converting the separately received sound sources to a plurality of separate audio signals without mixing the audio signals (Fig. 1, reference 8, 9); and means for separately storing the plurality of separate audio signals without mixing the audio signals (Fig. 1, reference 11-17). Phinney further discloses reproduction with each loudspeaker operated under control of a corresponding one of the sound records (page 2, lines 69-74) (i.e., means for separately retrieving over separate signal paths the stored audio signals (Fig. 2). Phinney further discloses a suitable amplifying apparatus associated with each sound record (page 2, lines 101-104) (i.e., an amplification network comprising a plurality of amplifier means (Fig. 2, reference 27, 28) with separate amplifier means in the separate signal paths for separately amplifying each of the separate audio signals). The limitation in the claim "each of the amplifier means comprising one or more amplifier elements" reads on any amplifier since any amplifier must have at least one element. Phinney further discloses a plurality of loudspeaking devices, each operated under control of a corresponding one of the sound records

(page 2, lines 69-74) (i.e., a loudspeaker network comprising a plurality of loudspeaker means, with separate loudspeaker means in the separate signal paths for reproducing the separately amplified audio signals (Fig. 2, reference 18, 19). US Patent 5,740,260 to Odom discloses a sound processor interface that individually controls volume on a plurality of audio channels (column 3, lines 15-30, 56-60). Odom further discloses the sound processor being suitable for adapting an audio program that frequently changes venues (column 2, lines 44-59; column 3, lines 53-61). Phinney discloses use of the recording and reproducing system in conjunction with a motion picture (page 2, lines 115-125). Because motion pictures are projected in theatres with varying configurations and acoustic characteristics, it would have been obvious to one skilled in the art at the time of the invention to apply automatic individual control of audio channel volume as taught by Odom to the recording and reproducing system taught by Phinney for the purpose of rapidly adapting the system to different locations and providing a convenient way to save and reapply previously saved parameters for a particular location (Odom: column 2, line 44 through column 3, line 6). Although Odom individually controls volume on a plurality of channels by a central processor (Figure 1), the processor repeatedly scans all channels and provides all parameters for each channel within an allocated time frame (Abstract). The scan rate of the individual channels may be rapid (column 3, lines 41 through 47; column 6, lines 1 through 147 column 7, line 63 through column line 2; column 9, lines 1 through 8), but such scanning is still done sequentially, and not simultaneously as set forth in the claim. As such, the prior art neither discloses nor suggests all elements of the claimed invention. As such, the claim is allowable.

3. Claims 29, 30, 108 and 109 contain limitations similar to those of Claim 1 and are allowable for the same reasons.

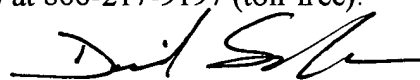
4. Claims 56 through 107 are allowable due to dependence from their respective base claims.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel Swerdlow whose telephone number is 571-272-7531. The examiner can normally be reached on Monday through Friday between 7:30 AM and 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sinh H. Tran can be reached on 571-272-7564. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Daniel Swerdlow
Examiner
Art Unit 2646